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OGC HAS REVIEWED.

8 November 1950

MEMORANDUM FOR: MR. L. R. HOUSTON

SUBJECT: Violations of Defense Production Act of 1950.

1. Penalties for violations of Title I, Priorities and Allocations, of the Act are provided generally in Section 103, as follows:

"Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both."

2. NPA Regulation 2 provides for violations in section 11.26, as follows:

"Any person who willfully violates any provision of this part or any other regulation or order of the NPA, or furnishes false information or conceals any material fact in the course of operation under any such regulation or order, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person to suspend his privilege of making or receiving further deliveries of materials or using facilities under priority or allocation control and to deprive him of further priorities assistance."

3. The wording of the two sections quoted above indicates that they were intended to prohibit violations of the Act by manufacturers and suppliers. NPA Regulation 2 contains various prohibitions against improper "application" or "extension" of priorities, but does not specifically deal with the improper "assignment" of a rating by Government agencies or employees.

4. By the provisions of Section 702 (a) of the Act, Government agencies are specifically excepted from the punishments provided by the Act. Section 702 (a) reads as follows:

"The word 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any

other government, or any of its political subdivisions, or any agency of any of the foregoing: Provided, That no punishment provided by this Act shall apply to the United States, or to any such government, political subdivision, or government agency."

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Legal Staff